

Edgar R. DeGuzman, pro se
2913 Bluebonnet Ct.
Antioch, CA. 94531
egzman@gmail.com

FILED (5)
DEC 10 2021
Fee Paid
ag

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTHERN CALIFORNIA
Ronald V. Dellums Federal Building & US Courthouse
1301 Clay Street
Oakland, CA. 94612**

EDGAR R. DEGUZMAN,

Plaintiff

v.

**TOM VILSACK, SECRETARY,
U.S. DEPARTMENT OF AGRICULTURE,**

Defendant.

:
:
:
:
:
:
:
:
:
:
:

Civil Action No.

C 21 - 09573

Bench Decision Requested

AGT

COMPLAINT

PRELIMINARY STATEMENT

This is an employment-related action for violations of the Plaintiff's rights granted under the Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e et seq. ("Title VII") and Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621 to 634. Plaintiff was discriminated and retaliated against based on his race, national origin, age, and his prior protected activity when his contracted employment at U. S. Department of Agriculture, Albany, California, was terminated and when he was not selected for IT Specialist position.

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to Title VII of the Civil Rights Act of 1964, as codified, 42 U. S. C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin) and Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

2. The unlawful employment practices alleged below were committed and/or executed by supervisory personnel of the U. S. Department of Agriculture (“the employer”). The claims arise from events that took place in 2018 in the facility located in Albany, California. Accordingly, venue lies in the United States District Court for the Northern District of California.

PARTIES

3. The pro se Plaintiff, Edgar R. DeGuzman, is an adult individual who has a mailing address of 2913 Bluebonnet Ct, Antioch, CA 94531. His email is: egzman@gmail.com.

4. The Defendant, Tom Vilsack is Secretary of U. S. Department of Agriculture (“USDA”) with the Headquarter at 1400 Independence Ave, S.W, Washington, DC 20250

5. At all relevant times, Jeffery Ridenour was Contract Specialist, GS-1101-12, at USDA, Agriculture Research Services (ARS), Acquisitions Branch (AB), 800 Buchanan Street, Albany, CA 94710. Ridenour was the deciding official for the USDA’s contract with Panum Group, LLC 7315 Wisconsin Ave, Bethesda, MD. 20814.

6. At all relevant times, David Ford was Budget and Fiscal Officer, GS-001-13, at USDA, Agriculture Research Services (ARS), Administrative and Financial Management (AFM), Western Business Service Center (WBSC), Budget Travel and Agreements (BTA), Albany, CA.

7. At all relevant times, Howard "Hank" Davis was IT Specialist/Team Lead, GS-22 10-13 USDA, Agriculture Research Services (ARS), Information Technology Service Division (ITS), 2150 Centre Ave, Building D, Suite 300 Fort Collins, CO. 80526 For the purpose of this matter, Davis was the off-site supervisor for Plaintiff.

8. At all relevant times, Theresa Davis was IT Specialist, GS-12 at USDA, ARS, Albany, C A. She provided daily assignments to Plaintiff.

9. U. S. Department of Agriculture engages in commerce for the purposes of Title VII of Civil Rights Act of 1964 and qualifies as an employer within the meaning of the statute and regulations at issue in this case.

STATEMENT OF FACTS

10 The pro se Plaintiff, Edgar R. DeGuzman, is Asian; his national origin is Filipino. He was born in January 1958. He was 60 years old in 2018.

11. Since September 29, 2017, Plaintiff has been assigned as a contractor at USDA, Agriculture Research Services (ARS), Western Business Services Center, Pacific West Area, Albany, C A. He worked as IT Help Desk Support. Plaintiff was assigned to USDA by Panum Group, L L C which had a contract with USDA to provide IT manpower. He was supervised by the on-site supervisors, Howard "Hank" Davis and Theresa Davis.

12 At all relevant time Plaintiff's location, nature, time, and manner of work were determined by USDA, the Defendant.

Plaintiff's Prior Protected Activities

13 As of September 2018 Plaintiff had a record of having engaged in a discrimination complaint, which he filed against Kaiser Hospital in Contra Costa County, C A,

- ♥ which was dual filed with EEOC . The matter was dismissed in May 20 18 by Contra Costa County Court.

14. Between 200 1 and 2002 Plaintiff had filed an EEO complaint against the State of California Judicial Council.

15 Between September 20 18 and December 20 18 USDA conducted an employment background check on Plaintiff and discovered his past EEO claims filed against Kaiser Hospital in Contra Costa County, C A and the other aforementioned former employers.

Particulars of Allegations

The Plaintiff alleges that based on his race (Asian), national origin (Filipino), age (born in January 1958) and based on his prior protected EEO activity (EEO complaint against Kaiser Hospital, Contra Costa County, CA), he was discriminated and retaliated against when:

16 On July 25, 20 18 Plaintiff learned that he was not selected for the IT Specialist position, GS-22 10-12, announced by vacancy number ARS-S18Y-003

- a. The vacancy announcement was for two positions and was closed on June 28, 20 18.
- b. Joseph Kotra was selected for the position in question. At the time he was 37 years old, American born, Caucasian with no known history of engaging in prior EEO activity.
- c. Kotra declined the job offer in mid 20 18.

d. The two IT Specialist positions were filled in 2019 by two non-veteran Caucasians, both younger than 40 years old with European ancestry with no prior engagement with the protected EEO activity.

e. Plaintiff had over 11 years of IT experience, had an A.S. Degree from a technical school, had completed 104 hours of college credit while he was pursuing an IT certifications.

f. The duties of the two vacant positions in question were almost identical to the Help Desk IT Specialist position Plaintiff held as a contractor since September 2017.

g. Those who were hired into the two positions in question in 2019 were less qualified than Plaintiff.

17. On September 28, 2018 Plaintiff learned that his contract with USDA was not renewed, effectively terminating his work assignment at USDA.

a. There were no funding shortages for supporting Plaintiff's work assignment at USDA as Help Desk IT Specialist.

b. The two IT Specialist positions were vacant and were open for applications as of June 2018 with the vacancy number: ARS-S18Y-003. There were no funding shortages.

c. As of August 19, 2018 USDA was actively soliciting applications for IT Help Desk Support position. There were no funding shortages.

d. The two IT Specialist positions were filled in 2019. There were no funding shortages.

e. The duties of the two vacant positions in question were almost identical to the Help Desk IT Specialist position Plaintiff held as a contractor since September 2017.

f. Plaintiff was never informed of any customer complaints against his services.

g. Plaintiff always completed the Help Desk tickets.

h. Plaintiff was never cited for any performance issues or for any deficiency in customer services.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. On October 9, 2018 Plaintiff initiated contact with EEO office to allege discrimination and retaliation issues raised in this case.

a. Plaintiff was not aware of the 45-day jurisdictional time limits, within which to initiate contact with EEO counselor.

b. USDA failed to post or provide training on the requirement about contacting an EEO counselor within 45 days of discriminatory event.

19. On December 6, 2018 Plaintiff timely filed a formal EEO complaint alleging the same issues raised in this case: Agency case number ARS-2019-0009.

20. On September 13, 2021 Supervisory Administrative Judge Emily MacMillin at EEOC, San Francisco, CA issued a summary judgment decision in favor of the Defendant prior to authorizing discovery in this matter: EEOC case no. 502200074 X.

21. On September 14, 2021 USDA issued a Final Agency Decision in favor of the Defendant.

REMEDIES and RELIEF

22. Plaintiff seek appropriate remedies, pecuniary and non-pecuniary, including but not limited placement to IT Specialist position retroactive to July 25, 2018 with lost wages and benefits.

NO JURY DEMAND

23. The Plaintiff herein hereby a bench decision on all issues in this action.

WHEREFORE, the Plaintiff respectfully requests that the Court enter judgment in his favor and against the Defendant.

Respectfully Submitted,



/s/
Edgar R. DeGuzman, pro se
2913 Bluebonnet Ct.
Antioch, CA. 94531
egzman@gmail.com

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that the documents specified below were served on the entity identified below on the date of the signature below by means indicated below:

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH CAROLINA
Ronald V. Dellums Federal Building & US Courthouse
1301 Clay Street
Oakland, CA 94612

Via FedEx

Complaint
Check or money order: \$4000
Summons
Civil Cover Sheet



Chungsoo J. Lee
Pro Se Litigation Admin. Support
EEO 21, LLC
275 E. Street Road, #27
Feasterville, PA 19053
Lee.eeo21@gmail.com